IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 18168 of 1997

Between:

K.Nagarathnam, s/o K.Subbulaiah, R/o Nagapalyam, Punganur, Chittoor District, ISC.No.198, Punganur Cold Storage, Mangalam, Chittoor District.

..... PETITIONER

AND

1. The Chief Engineer, APSEB, Nellore Zone, Nellore District.
2. The Superintending Engineer, APSEB, Assessment, Kadapa, Kadapa District.
3. The Assistant Divisional Engineer, APSEB, DPE, Kadapa, Kadapa District.
4. The Assistant Divisional Engineer, APSEB, Operation, Punganur, Chittoor District.
5. The Assistant Accounts Officer, E.R.O., Punganur, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly one in the nature of Mandamus, declaring the order passed by the 1st respondent in L.R.No.CEE.NZ.NLR.C & P.A.D.No.1891/97, dt.24.06.1997, confirming the order passed by the 2nd respondent dt.07.01.1997 in proceedings No.SE/A/CDP/FAO/D.MPL/MP/F.12/95-96/D.No.1568/97, as arbitrary, illegal discriminatory and violative of Article 14 and 19 (1) (g) of the Constitution of India and set aside the same.

Counsel for the Petitioner: MR.R.RAMACHANDRA REDDY
Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and Smt.M.Vinobha Devi, the learned Standing Counsel appearing for the respondents.

The petitioner, who is running a cold storage plant, files this writ petition, *inter alia*, seeking to assail the assessment made by the second respondent as per orders dated 07.01.1997 as confirmed by the first respondent by order dated 24.06.1997.

The case of the petitioner in brief is that during the inspection conducted by the respondents herein on 29.10.1995, it was found that an extra meter was lying there and therefore by taking into account the same, ultimately final assessment was made. However, according to the petitioner, the said meter was connected only as standby which is unconnected and therefore it could not have been formed as basis for such assessment.

Both the authorities below did not accept the aforesaid explanation and having regard to the report of the Inspector to the effect that the said meter was removed just prior to the inspection and therefore by taking into consideration the capacity of the said meter, assessment was made.

The plea of the petitioner that the said meter was only standby,

does not hold good in view of the fact that admittedly one meter is already existing and in respect of another meter there is no prior approval or any intimation to the respondents herein. In the absence of any such explanation, the plea of the petitioner cannot be accepted. However, taking consideration the fact that the inspection was conducted as long back as on 29.10.1995, the assessment as now made cannot said to be reasonable. The petitioner has already paid Rs.25,000/- out of the assessment amount in pursuance of the order of this Court dated 05.08.1997 in W.P.M.P.No.22039 of 1997.

In view of the same, the writ petition is allowed in part reducing the amount of assessment to the extent of the amount which has already been paid by the petitioner. No costs.

09.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Ninth Day of December, Two Thousand and Four.

To

1. The Chief Engineer, APSEB, Nellore Zone, Nellore District.
2. The Superintending Engineer, APSEB, Assessment, Kadapa, Kadapa District.
3. The Assistant Divisional Engineer, APSEB, DPE, Kadapa, Kadapa District.
4. The Assistant Divisional Engineer, APSEB, Operation, Punganur, Chittoor District.
5. The Assistant Accounts Officer, E.R.O., Punganur, Chittoor District.
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